

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 17 Payment Card Transaction Exactions
SPONSOR(S): Government Efficiency & Accountability Council and Galvano
TIED BILLS: **IDEN./SIM. BILLS:** SB 1724

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|-------------------------|--------------|----------------|
| 1) <u>Government Efficiency & Accountability Council</u> | <u>11 Y, 0 N, As CS</u> | <u>Levin</u> | <u>Cooper</u> |
| 2) <u>Policy & Budget Council</u> | <u></u> | <u></u> | <u></u> |
| 3) <u></u> | <u></u> | <u></u> | <u></u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

Section 212.12(1), F.S., provides dealers with an allowance for remitting the sales and use taxes due to the State of Florida and making tax returns on the amounts remitted in the manner provided by the Department of Revenue. The allowance is 2.5 percent of the amount of the tax due up to a total of \$1,200 for each reporting period. The allowance is provided in the form of a deduction from the amount of the tax due.

Section 212.17 (1), F.S., provides dealers a reimbursement of the sales and use taxes collected at the time of purchase in the event that the purchaser or consumer returns the purchase. Similar mechanisms are created for repossessed goods in section (2) and worthless accounts in section (3). CS/HB 17 creates a new section (4) which permits dealers to take a credit in its sales and use tax return for the tax paid by the dealer on the percentage of the tax that is not reimbursed because of any fee charged or deducted from a payment card sale to the dealer by an issuer of a payment card for processing the payment card transaction. The credit is limited to the amount owed on the tax return and a dealer may not apply for a refund.

Fiscal Impact

On March 17, 2007 the Revenue Estimating Conference considered SB 1724 by Senator Baker and adopted a fiscal impact of (\$154.1 million) as total state impact for FY 2007 – 2008 and (\$34.4 million) as total local impact for FY 2007 – 2008. The House Policy and Budget Council has indicated that CS/HB 17 will have substantially the same impact as SB 1724.

The bill reduces the authority of cities and counties to raise revenues in the aggregate and constitutes a mandate. Therefore 2/3s of the membership of each house must approve the bill or the bill fails.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – This bill would decrease the amount of sales and use tax remitted to the State of Florida.

B. EFFECT OF PROPOSED CHANGES:

Current situation:

Section 212.12(1), F.S., provides dealers with an allowance for remitting the sales and use taxes due to the State of Florida and making tax returns on the amounts remitted in the manner provided by the Department of Revenue. The allowance is 2.5 percent of the amount of the tax due up to a total of \$1,200 for each reporting period. The allowance is provided in the form of a deduction from the amount of the tax due.

Section 212.17 (1), F.S., provides dealers a reimbursement of the sales and use taxes collected at the time of purchase in the event that the purchaser or consumer returns the purchase. Similar mechanisms are created for repossessed goods in section (2) and worthless accounts in section (3)

Effect of proposed changes:

A new subsection (4) is created. It permits a dealer who has paid the tax imposed by Chapter 212, F.S., to take as a credit on its sales and use tax return the tax paid by the dealer on the percentage of tax not reimbursed because of any fee charged or deducted from a payment card sale to the dealer by the issuer of the credit card. The credit is equal to the percentage of the payment card fee multiplied by the amount of tax on each payment card transaction. The amount of the credit is limited to the amount owed on the tax return, and no refunds or carry-forwards of additional sums are permitted.

The subsection applies to all taxes, surtaxes, and any local option taxes administered under Chapter 212 and remitted to the Department of Revenue. The credit does not apply to any locally imposed and self-administered convention development tax, tourist development tax, or tourist impact tax administered pursuant to Chapter 212, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.17, F.S., to create a new s. 212.17(4), F.S.

Section 2. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

| | <u>FY 2007 – 2008</u> | <u>FY 2008 – 2009</u> |
|--------------------|------------------------|------------------------|
| General Revenue | (\$153.7) million | (\$180.1) million |
| <u>State Trust</u> | <u>(\$0.4) million</u> | <u>(\$0.4) million</u> |
| Total State Impact | (\$154.1) million | (\$180.5) million |

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

| | <u>FY 2007 – 2008</u> | <u>FY 2008 – 2009</u> |
|-----------------------|-------------------------|-------------------------|
| Revenue Sharing | (\$5.1) million | (\$6.0) million |
| Local Gov't Half Cent | (\$14.7) million | (\$17.3) million |
| <u>Local Option</u> | <u>(\$14.6) million</u> | <u>(\$17.1) million</u> |
| Total Local Impact | (\$34.4) million | (\$40.4) million |

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Dealers will owe less tax on payment card transactions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a county or municipality to spend funds and does not reduce the percentage of a state tax shared with counties and municipalities. Therefore the provisions of Subsections 18(a) and (c), Florida Constitution, do not apply.

The bill reduces the authority that municipalities or counties have to raise revenue in the aggregate, and the mandate provision of Subsection 18(b), Florida Constitution, does apply. Therefore 2/3s of the membership of each house must approved the bill or the bill fails.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 18, 2007, the Government Efficiency & Accountability Council adopted a strike-all amendment which added a new (4) to s. 212.17, F.S. It permits a dealer who has paid the tax imposed by Chapter 212, F.S., to take as a credit on its sales and use tax return the tax paid by the dealer on the percentage of tax not reimbursed because of any fee charged or deducted from a payment card sale to the dealer by the issuer of the credit card. The council reported HB 17 favorably with a council substitute. This analysis has been updated to reflect the council substitute.